

Serial No.: 10/729,035
Docket No.: ECV-5413CIP2CON1
Amendment Dated February 22, 2007
Responsive to Office Action dated December 5, 2006

REMARKS

Prior to the present Office Action, claims 1-23 were pending, and claims 24-30 were canceled. Claims 11-12 and 19-20 are canceled herewith, and 31-41 are added. Therefore claims 1-10, 13-18, 21-23, and 31-41 remain pending.

Claims 1-23 stand rejected under the ground of nonstatutory obviousness-type double patenting over claims 1-51 of U.S. Patent No. 6,558,418. Accordingly, a Terminal Disclaimer overcoming this rejection is submitted concurrently herewith.

Claims 1-4, 6-7, 9-11, 13-19, and 22-23 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,501,030 to Lane. Although Applicants strenuously disagree with the application of Lane, in particular using an “intermediate product” shown in Lane to reject the claims to a prosthetic heart valve including a suture-permeable connecting band attached to the stent providing an interface between the valve and surrounding host tissue. However, given the apparent indication that some of the claims are allowable, as detailed below, Applicants opt to accept the allowable claims, but reserve the right to refile these rejected claims in a continuation application at a later date.

Based on the rejection of only certain listed claims by the Examiner, Applicants assume that claims 5, 8, 12, and 20-21 would be allowable upon filing the Terminal Disclaimer mentioned above.

Accordingly, claims 11 and 12 have been incorporated into claim 1, and claims 19 and 20 have been incorporated into claim 13, rendering claims 1 and 13 allowable. Claims 11-12 and 19-20 are canceled.

Additionally, allowable claim 5 has been combined with original claim 1 into new claim 31, and claims 32-36 that are dependent therefrom also added. Claims 31-36 are believed allowable.

Finally, allowable claim 8 has been combined with original claim 1 into new claim 37, and claims 38-41 that are dependent therefrom are also added. Claims 37-41 are believed allowable.

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Fees Due to File This Amendment

Prior to the pending Office Action, a fee was paid for the original 30 claims, with 3 of them being independent claims. The aforementioned claim additions and cancellations have resulted in more than the original number of independent claims. The Commissioner is hereby authorized to charge the required fee of \$200.00 to Deposit Account No. 50-1225 (Docket No. ECV-5413CIP2CON1). If an appropriate payment does not accompany or precede this submission, the Commissioner is hereby authorized to charge any required fees, such as under 37 C.F.R. §§ 1.16 or 1.17, including any petition for extension of time, or to credit any overpayment, to Deposit Account No. 50-1225.

CONCLUSION

In view of the above amendments and remarks, it is submitted that claims 1-10, 13-18, 21-23 and 31-41 are now in condition for allowance. If there is any further hindrance to allowance of the present application, the Examiner is encouraged to contact the undersigned by telephone.

Respectfully submitted,

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